

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

JOSEP RAMIREZ ALVAREZ

PETITIONER

VS.

CIVIL ACTION NO. 5:19-cv-123-DCB-MTP

SHAWN GILLIS

RESPONDENT

ORDER ADOPTING REPORT AND RECOMMENDATION

This cause is before the Court on United States Magistrate Judge Michael T. Parker's Report and Recommendation (**docket entry 13**), addressing Petitioner Joseph Ramirez Alvarez's Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241.

Petitioner asserts that he had been detained in immigration custody for approximately seventeen months. Petitioner argues that his extended detention violates the Immigration and Nationality Act and violates his substantive and procedural due process rights. Petitioner seeks release from immigration custody.

Respondent Gillis filed a Motion to Dismiss for Mootness (**docket entry 12**), showing that Petitioner is no longer detained in the Adams County Correctional Center. He was removed to Venezuela on February 21, 2020. Alvarez's habeas petition is therefore moot.

Mootness is an issue of subject matter jurisdiction. A federal court has jurisdiction to issue a writ of habeas corpus only if the petitioner is "in custody." 28 U.S.C. § 2241. The mootness doctrine requires that the controversy posed by a petitioner "be 'live,' not only at the time [he] files the complaint but also throughout the litigation process." Rocky v. King, 900 F.2d 864, 866 (5th Cir. 1990)(citing United States Parole Comm'n v. Geraghty, 445 U.S. 388 (1980)).

The relief that Ramirez Alvarez seeks in his Petition - release from Immigration and Customs Enforcement ("ICE") custody has occurred. Thus, no case or controversy remains.

The Court therefore adopts Magistrate Judge Parker's Report and Recommendation;

A Separate Final Judgment shall follow.

This the 1st day of June, 2020.

/s/ David Bramlette\_\_\_\_\_

UNITED STATES DISTRICT JUDGE